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COUNTY ADMINISTRATOR

AUG 31 1978

June 6, 1978

UNIVERSITY OF CALIFORNIA

The Honorable Board of Supervisors  
Administration Building  
Oakland, CA 94612

Dear Board Members:

Subject: Advisability of Modifying County Layoff  
Plans if Proposition 13 Passes

On May 23, 1978, your Board received letters from the Human Relations Commission, the Commission on the Status of Women, and the Consumer Affairs Commission proposing alternatives to the County's layoff plans if Proposition 13 passes. The alternatives include implementation of a reduced work week, increasing the opportunity for job-sharing and part-time employment, encouraging leaves of absence, and encouraging early retirement. The purpose of these actions, as stated by the three Commissions, is to maintain full employment and retain affirmative action gains already achieved. Other benefits include reduction of the County's liability for unemployment insurance costs and reduction in the likelihood of employees receiving public assistance. Special interest was expressed about the layoff of staff employed in bilingual positions and the possibility that such layoffs may violate the Bilingual Services Act.

The concerns expressed in the three letters were referred to the County Administrator's Office for review and report and the matter was continued for further deliberation. The following are the results of that review.

Unless agreed to by employees, job sharing, part-time employment or a reduced work week would represent the imposition of an unanticipated hardship on the more senior employees whose pay and benefits would be otherwise unaffected by a general layoff. If such arrangements were undertaken to maintain affirmative action gains they would constitute reverse discrimination and would be unlawful. In an April 19, 1978 memorandum regarding the subject, the County Counsel indicates

...case law and applicable legislation compel the conclusion that the County may lawfully lay off on the basis of 'last hired, first fired' notwithstanding its impact on women and protected minorities, and that any efforts to give a layoff preference to employees having less seniority in order to maintain affirmative action goals would constitute unlawful reverse discrimination.



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Even if job sharing, part-time employment or a reduced workweek were mandated for reasons other than affirmative action, it is likely that the senior employees who had reason to expect continued full-time employment status, would prevail in a lawsuit against the County.

Department heads are generally opposed to job sharing or reduced work weeks. Those queried indicated that such arrangements may only add additional disruption to department operations already impaired by budgetary cuts due to passage of Proposition 13. It is our understanding that several agency and department heads will be writing directly to your Board on this subject. The establishment of special work schedules for a large percentage of the workforce during an undetermined period may represent a significant, additional and unmanageable burden for departments whose primary mission will be the continuation of direct services under severe budgetary cutbacks.

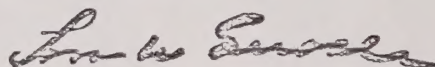
With regard to the layoff of employees occupying bilingual positions and the possible violation of the Bilingual Services Act, department heads have been instructed to give appropriate priority to these and other mandates in their layoff plans. It is important to note that such positions may be differentiated from similar positions without bilingual requirements, and treated with preference in any departmental layoff plan.

The encouragement of leaves of absence would appear not feasible and possibly disadvantageous to employees. Of primary concern is the fact that individuals taking such leaves would be precluded from qualifying for unemployment insurance benefits. With regard to the encouragement of early retirement, it is felt that where possible, early retirement represents a viable alternative to a general layoff and should be encouraged.

THEREFORE, IT IS RECOMMENDED THAT:

1. Your Board maintain previously approved plans for a layoff, if one becomes necessary.
2. Your Board approve the concept of job sharing or reduced work week only when certified as to practicality by the appropriate department head and agreed to voluntarily by individual employees.
3. Your Board encourage the early retirement of employees as a viable alternative to a general layoff if Proposition 13 passes.

Very truly yours,



LOREN W. ENOCH  
COUNTY ADMINISTRATOR

LWE/KG/SNS:k1e

cc: Agency and Department Heads

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